



**Chairperson: Bob Wyatt, NW Natural**  
**Treasurer: Frederick Wolf, DBA, Legacy Site Services for Arkema**

*via electronic mail*  
March 18, 2016

Lori Cora  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 10, ORC-158  
1200 Sixth Avenue  
Seattle, WA 98101-3140

**Re: Lower Willamette Group Freedom of Information Request (Lower Willamette River,  
Portland Harbor Superfund Site, USEPA Docket No: CERCLA-10-2001-0240)**

Dear Lori:

As a follow up to our conversation on Wednesday, we are writing to confirm the willingness of the Lower Willamette Group and its members to work with EPA to avoid any delay in EPA's issuance of the Proposed Plan for Portland Harbor related to the LWG's March 9, 2016 request under the Freedom of Information Act. We want to reiterate that our intent in submitting the FOIA request on March 9 was to ensure that we would receive EPA's response in time to inform our decision about whether to initiate dispute resolution concerning the EPA's final Feasibility Study within the 14 day deadline following issuance of the Proposed Plan, which we understand EPA expects to release the week of April 4.<sup>1</sup> We did not intend to create any additional burden or delay for EPA; we are simply attempting to obtain information to support a very short deadline for review of the FS, to inform our comments on the proposed plan, and to ensure a complete administrative record for EPA's remedy selection.

To confirm the ideas we discussed on Wednesday, the LWG and its members are willing to do or accept any combination of the following to avoid impacting EPA's schedule:

- EPA has already provided information related to the August 2015 draft FS in response to our informal requests last fall. We are not requesting that EPA duplicate that production. If EPA can confirm that all non-exempt records concerning aspects of the August 2015 draft FS that will carry forward into the final FS have already been provided, we are willing to defer receipt of an index of exempt information until after issuance of the Proposed Plan, or even after issuance of the ROD. We understand from our conversation that EPA may not find this a helpful suggestion for certain technical reasons, and that EPA may in fact find it more burdensome not to duplicate information it has already provided. To the extent EPA finds some merit in this offer, however, the

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<sup>1</sup> This deadline was established in the February 4, 2016 settlement agreement between EPA and the LWG concerning EPA's January 4, 2016 takeover of the Portland Harbor FS.

LWG would also be willing to provide an index of the information we have received to date.

- The LWG is willing to negotiate with EPA an extension to the deadline for initiating dispute resolution on EPA's final FS to some later date within the public comment period on the Proposed Plan but after receipt of the records subject to the FOIA. If we could agree to extend this deadline, the LWG would withdraw the existing FOIA and submit a new FOIA after the Proposed Plan issues.
- The LWG is willing to work with EPA to identify a narrowed scope of information requests related to EPA's revisions to the August 2015 draft FS that would facilitate EPA providing at least some records prior to the current FS dispute deadline. As we understand it, EPA's preference would be for us to withdraw the existing FOIA and replace it with a new FOIA that, for example, focused on records generated after August 18, 2015. The LWG would then submit a more comprehensive FOIA after the Proposed Plan issues.
- We understand from our conversation with you that deferring the FOIA until after issuance of the Proposed Plan may trigger similar concerns about burdening EPA resources during and after the public comment period. As we explained during the call, we believe our best opportunity to ensure a complete administrative record in the event of any later judicial review is to have the agency's records available for review of the final FS and incorporation into our comments on the proposed plan. However, if EPA will stipulate that we can supplement the administrative record in any later judicial review, we would be willing to withdraw the existing FOIA request and submit a new FOIA request after EPA issues the Portland Harbor ROD.

We hope that EPA will consider these ideas, and we certainly remain open to other ideas EPA may have. Again, we are committed to working with EPA so that the scope and timing of this FOIA does not delay issuance of the Proposed Plan. We look forward to hearing from you.

Sincerely,

The Lower Willamette Group



By Patty Dost and Loren Dunn

cc: Dennis McLerran, U.S. Environmental Protection Agency, Region 10  
Cami Grandinetti, U.S. Environmental Protection Agency, Region 10  
Jim Woolford, U.S. Environmental Protection Agency, EPA Headquarters